

Date of Hearing: April 21, 2026

Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Nick Schultz, Chair

AB 2342 (Hoover) – As Amended April 14, 2026

SUMMARY: Expands the Governor’s authority to reverse or modify Board of Parole Hearings (BPH) decisions, requires BPH to give substantial weight to the nature and circumstances of the commitment offense when considering an incarcerated person’s suitability for parole, and changes the frequency with which an incarcerated person may petition BPH for an advance parole consideration hearing. Specifically, **this bill**:

- 1) Authorizes the Governor to, pursuant to subdivision (b) of Section 8 of Article V of the California Constitution and subject to a consideration of the same factors which the parole authority is required to consider, reverse or modify the decision of the BPH to grant parole to an inmate convicted of a violent felony, as defined, under either of the following conditions:
 - a) If the inmate is serving an indeterminate prison term, when the conviction is for one other than murder.
 - b) If the inmate is serving a determinate prison term and has not completed that term, only if the BPH’s decision to grant the inmate parole is under the Youth Offender Parole program or the Elderly Parole Program.
- 2) Provides that, in determining suitability for parole, as specified, the panel or the BPH shall consider all relevant, reliable information available to the panel or the BPH and shall give substantial weight to the nature and circumstances of the commitment offense, including, but not limited to, all of the following:
 - a) The degree of violence involved.
 - b) The vulnerability of the victim.
 - c) Evidence of premeditation, deliberation, or callousness.
 - d) The extent of injury or harm inflicted.
 - e) The sentence imposed by the sentencing judge.
- 3) Authorizes the panel or the BPH to determine that the aggravated nature of the commitment offense is sufficient, in and of itself, to support a finding that the inmate currently poses an unreasonable risk of danger to public safety.
- 4) Provides that the above criteria does not limit the consideration of any other relevant evidence bearing on the inmate’s suitability for parole.

- 5) Provides that the panel or the BPH shall ensure that public safety and the safety of victims are primary considerations, consistent with Section 28 of Article I of the California Constitution, when making a determination of parole.
- 6) Provides that BPH shall schedule the next parole suitability hearing at least five years after a hearing at which parole is denied for an inmate serving a term of conviction for any of the following:
 - a) Murder, if the victim was under 14 years of age;
 - b) Murder, if the crime involved multiple victims;
 - c) Aggravated sexual assault of a child under 14 years old, as specified;
 - d) Lewd and lascivious acts on a child under 14 years old, as specified, when committed by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury;
 - e) Sexual intercourse, sodomy, oral copulation, or sexual penetration of a child 10 years of age or younger, as specified; or,
 - f) A one-strike sex offense, as specified, where the defendant has been convicted in the present case or cases of committing a specified offense against more than one victim.
- 7) Requires an inmate to demonstrate the change in circumstances justifying a petition to advance a parole suitability hearing was both material and substantial.
- 8) Defines “material and substantial change in circumstances” as a change that meets all of the following criteria:
 - a) The change was not known to, and could not reasonably have been known to, the BPH at the time of the inmate’s prior parole hearing or prior request to advance.
 - b) The change has a direct and demonstrable bearing on the inmate’s current risk to public safety.
 - c) The change is of such significance that it establishes a reasonable likelihood that consideration of public and victim safety no longer requires the additional period of incarceration.
- 9) Provides that a material and substantial change in circumstances shall not be based solely on any of the following:
 - a) Routine institutional compliance or the absence of disciplinary violations.
 - b) Participation in rehabilitative, educational, or vocational programming that was previously available to the inmate.
 - c) The mere passage of time.

- d) Reassertion of facts, arguments, or circumstances previously considered by the BPH.
- 10) Clarifies that the petition for an advance hearing must establish a reasonable likelihood that consideration of the victim's safety specifically, rather than just public safety generally, does not require the additional period of incarceration of the inmate.
 - 11) Changes the frequency with which an inmate may request an advance parole suitability hearing from every three years to every five years.
 - 12) Authorizes the BPH to summarily deny a request without an advance parole hearing if any of the following applies:
 - a) The request fails to demonstrate a material and substantial change in circumstances.
 - b) The request is repetitive or duplicative.
 - c) The request does not include sufficient supporting documentation or explanation.
 - 13) Requires BPH, upon receipt of a request, as specified, to do all of the following:
 - a) Provide notice to the prosecuting agency.
 - b) Provide notice to any registered victim.
 - c) Permit the prosecuting agency and any registered victim to submit written input within a reasonable period.
 - 14) Requires the registered victim or the prosecuting agency to submit their input within 30 days of the date they receive notice.
 - 15) Defines "registered victim" as a person who has registered as a victim or victim's next of kin with the Department of Corrections and Rehabilitation's Office (CDCR) of Victim and Survivor Rights and Services.
 - 16) Requires BPH to issue a written decision explaining the basis for granting or denying the inmate's request to advance a hearing.
 - 17) Provides that, for an inmate serving a prison term for a specified offense, a request to advance a hearing shall not be granted absent clear and convincing evidence of a material and substantial change in circumstances.
 - 18) Provides provisions for a petition for an advance parole consideration hearing does not create a right to an advanced hearing absent compliance with this section.
 - 19) Requires BPH to provide an annual report to the Legislature and publish that report on its internet website.
 - 20) Requires that report to include, but not be limited to, all of the following:

- a) The rates of grants and denials of parole, aggregated by offense type.
 - b) Outcomes for parole eligible persons, aggregated by eligibility category, including elderly and youth offender parole.
 - c) The voting record of commissioners that includes all of the following:
 - i) Name of the inmate.
 - ii) Commitment offense.
 - iii) County of the commitment offense.
 - d) Whether the prosecuting agency appeared at the parole hearing.
- 21) Requires all parole, en banc, and rescission hearings to be recorded and transcribed.
- 22) Provides recordings of parole, en banc, and rescission hearings to be retained indefinitely by BPH.
- 23) Provides that this act shall become operative only if an Assembly Constitutional Amendment amending Section 8 of Article V of the Constitution is approved by the voters at the November 3, 2026, statewide election.
- 24) Provides that an en banc review conducted by BPH, as specified, shall not be held in closed session.
- 25) Contains a severability clause.
- 26) Included legislative findings and declarations.

EXISTING LAW:

- 1) Provides that no decision of the parole authority of this State with respect to the granting, denial, revocation, or suspension of parole of a person sentenced to an indeterminate term upon conviction of murder shall become effective for a period of 30 days, during which the Governor may review the decision subject to procedures provided by statute. The Governor may only affirm, modify, or reverse the decision of the parole authority on the basis of the same factors which the parole authority is required to consider. The Governor shall report to the Legislature each parole decision affirmed, modified, or reversed, stating the pertinent facts and reasons for the action. (Cal. Const., art. V, § 8, subd. (b) [as amended November 8, 1988].)
- 2) Provides that, during the 30 days following the granting, denial, revocation, or suspension by the board of the parole of an inmate sentenced to an indeterminate prison term based upon a conviction of murder, the Governor, when reviewing the board's decision, shall review materials provided by the board. (Pen. Code, § 3041.2, subd. (a).)

- 3) If the Governor decides to reverse or modify a parole decision of the board, the Governor shall send a written statement to the inmate specifying the reasons for his or her decision. (Pen. Code, § 3041.2, subd. (b).)
- 4) Authorizes the Governor, any time before an inmate's release, to request review of a decision by a parole authority concerning the grant or denial of parole to any inmate in the state prison. The Governor shall state the reason or reasons for the request, and whether the request is based on a public safety concern, a concern that the gravity of current or past convicted offenses may have been given inadequate consideration, or on other factors. (Pen. Code, § 3041.1, subd. (a).)
- 5) Provides that, if a request has been made, the request shall be reviewed by a majority of commissioners specifically appointed to hear adult parole matters and who are holding office at the time. In case of a review, a vote in favor of parole by a majority of the commissioners reviewing the request shall be required to grant parole to any inmate. (Pen. Code, § 3041.1, subd. (b).)
- 6) Provides that in the case of any incarcerated person sentenced pursuant to any law, except as specified, the BPH must meet with each inmate during the sixth year before the inmate's minimum eligible parole date (MEPD) for the purposes of reviewing and documenting the inmate's activities and conduct pertinent to parole eligibility. (Pen. Code, § 3041, subd. (a)(1).)
- 7) Requires that during the incarcerated person's consultation, the board provide the person with information about the parole hearing process, legal factors relevant to his or her suitability or unsuitability for parole, and individualized recommendations for the person regarding his or her work assignments, rehabilitative programs, and institutional behavior. Requires the board, within 30 days following the consultation, to issue its positive and negative findings and recommendations to the person in writing. (Pen. Code, § 3041, subd. (a)(1).)
- 8) Requires a panel of two or more commissioners or deputy commissioners to meet with the incarcerated person one year before the person's MEPD and provides that the panel shall normally grant parole. (Pen. Code, § 3041, subd. (a)(2).)
- 9) Provides that the panel or the board, sitting en banc, shall grant parole to an inmate unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual. (Pen. Code, § 3041, subd. (b)(1).)
- 10) Requires BPH, after denying parole to an incarcerated person, to schedule the next paroled suitability hearing, after considering the views and interests of the victim, as follows:
 - a) Fifteen years after any hearing at which parole is denied, unless the board finds by clear and convincing evidence that the criteria relevant to the decision denying parole are such that consideration of the public and victim's safety does not require a more lengthy period of incarceration for the inmate than 10 additional years.

- b) Ten years after any hearing at which parole is denied, unless the board finds by clear and convincing evidence that the criteria relevant to the decision denying parole are such that consideration of the public and victim's safety does not require a more lengthy period of incarceration for the inmate than seven additional years.
 - c) Three years, five years, or seven years after any hearing at which parole is denied, because the criteria relevant to the decision denying parole are such that consideration of the public and victim's safety requires a more lengthy period of incarceration for the inmate, but does not require a more lengthy period of incarceration for the inmate than seven additional years. (Pen. Code, § 3041.5, subd. (b)(3)(A)-(C).)
- 11) Authorizes BPH, in its discretion, after considering the views and interests of the victim, to advance a parole hearing to an earlier date when a change in circumstances or new information establishes a reasonable likelihood that consideration of the public and victim's safety does not require the additional period of incarceration. (Pen. Code, § 3041.5, subd. (b)(4).)
 - 12) Authorizes an inmate to request an advance hearing date by submitting a written request to BPH, with notice, upon request, and a copy to the victim, setting forth the change in circumstances or new information that establishes a reasonable likelihood that consideration of the public safety does not require the additional period of incarceration of the inmate. (Pen. Code, § 3041.5, subd. (d)(1).)
 - 13) Authorizes BPH, after considering the views and interests of the victim, to decide to grant or deny a request for an advance hearing date. (Pen. Code, § 3041.5, subd. (d)(2).)
 - 14) Provides that BPH's decision is subject to review by a court or magistrate only for a manifest abuse of discretion by BPH. (Pen. Code, § 3041.5, subd. (d)(2).)
 - 15) Authorizes BPH to summarily deny a request that does not comply with specific requirements or that does not set forth a change in circumstances or new information sufficient to justify granting an advance hearing date. (Pen. Code, § 3041.5, subd. (d)(2).)
 - 16) Provides that an incarcerated person may make only one written request for an advance hearing date every three years. (Pen. Code, § 3041.5, subd. (d)(3).)
 - 17) Provides that, following either a summary denial of a request for an advance hearing, or the decision of BPH after a hearing to deny parole, the incarcerated person may not submit another request for a hearing until a three-year period of time has elapsed from the summary denial or decision of the board. (Pen. Code, § 3041.5, subd. (d)(3).)
 - 18) Provides that at all hearings for the purpose of reviewing an inmate's parole suitability, or the setting, postponing, or rescinding of parole, with the exception of en banc review of tie votes, the following apply:
 - a) At least 10 days before any BPH hearing, the incarcerated person is permitted to review the file which will be examined by the board and the opportunity to enter a written response to any material contained in the file.

- b) The incarcerated person shall be permitted to be present, to ask and answer questions, and to speak on his or her own behalf. Neither the incarcerated person nor their attorney is entitled to ask questions of any person appearing at the hearing, as specified.
 - c) Unless legal counsel is required by some other law, a person designated by CDCR shall be present to ensure that all facts relevant to the decision be presented, including, if necessary, contradictory assertions as to matters of fact that have not been resolved by departmental or other procedures.
 - d) The inmate and specified persons are permitted to request and receive a stenographic record of all proceedings.
 - e) If the hearing is for the purpose of postponing or rescinding parole, the inmate shall have specified rights.
 - f) BPH shall set a date to reconsider whether an inmate should be released on parole that ensures a meaningful consideration of whether the inmate is suitable for release on parole. (Pen. Code, § 3041.5, subd. (a).)
- 19) Requires BPH, within 10 days of granting parole, to send the incarcerated person a written statement setting forth the reasons for granting parole, the conditions of release, and the consequences of failure to meet those conditions. (Pen. Code, § 3041.5, subd. (b)(1).)
- 20) Requires BPH, within 20 days of denying parole, to send the incarcerated person a written statement setting forth the reasons for denying parole, and suggest activities in which to participate that will benefit the person while incarcerated. (Pen. Code, § 3041.5, subd. (b)(2).)
- 21) Requires BPH, within 10 days of any board action resulting in the rescinding of parole, to send the incarcerated person a written statement setting forth the reasons for that action, and to schedule the inmate's next hearing. (Pen. Code, § 3041.5, subd. (b)(5).)
- 22) Requires BPH to conduct a parole hearing as a de novo hearing. Findings made and conclusions reached in a prior parole hearing shall be considered in but shall not be deemed to be binding upon subsequent parole hearings for an inmate, but shall be subject to reconsideration based upon changed facts and circumstances. (Pen. Code, § 3041.5, subd. (c).)
- 23) Requires BPH, when conducting a hearing, to admit the prior recorded or memorialized testimony or statement of a victim or witness, upon request of the victim or if the victim or witness has died or become unavailable. (Pen. Code, § 3041.5, subd. (c).)
- 24) Establishes the Elderly Parole Program, to be administered by BPH, for purposes of reviewing the parole suitability of any inmate who is 50 years of age or older and has served a minimum of 20 years of continuous incarceration on the inmate's current sentence, serving either a determinate or indeterminate sentence. (Pen. Code, § 3055, subd. (a).)
- 25) Provides the following exceptions to the Elderly Parole Program:

- a) Persons who had a prior conviction for a serious or violent felony;
 - b) Persons who were sentenced to life in prison without the possibility of parole or death; or,
 - c) Persons convicted of first-degree murder of a peace officer, as defined, who was killed while engaged in the performance of their duties, and the individual knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of their duties, or the victim was a peace officer or a former peace officer and was intentionally killed in retaliation for the performance of their official duties. (Pen. Code, § 3055, subd. (g) & (h).)
- 26) Requires BPH, when considering the release of an inmate, as specified, to give special consideration to whether age, time served, and diminished physical condition, if any, have reduced the elderly inmate's risk for future violence. (Pen. Code, § 3055, subd. (c).)
- 27) Requires BPH, if an inmate is found suitable for parole under the Elderly Parole Program, to release the individual on parole, as specified. (Pen. Code, § 3055, subd. (e).)
- 28) Requires BPH, if parole is not granted, to set the time for a subsequent elderly parole hearing, as specified, and provides that no subsequent elderly parole hearing shall be necessary if the offender is released pursuant to other statutory provisions prior to the date of the subsequent hearing. (Pen. Code, § 3055, subd. (f).)
- 29) Provides that a youth offender parole hearing is a hearing by the BPH for the purpose of reviewing the parole suitability of any incarcerated individual who was 25 years of age or younger, or was under 18 years of age if sentenced to LWOP, at the time of the controlling offense. (Pen. Code, § 3051, subd. (a)(1).)
- 30) Provides that in reviewing a person's suitability for parole in a youth offender parole hearing, BPH must give great weight to the diminished culpability of juveniles as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the person in accordance with relevant case law. (Pen. Code, §§ 3051, subd. (d) & 4801, subd. (c).)
- 31) Provides the following parole mechanism for a person who was convicted of a controlling offense that was committed when the person was 25 years of age or younger:
- a) If the controlling offense was a determinate sentence, the person is eligible for release during person's 15th year of incarceration;
 - b) If the controlling offense was a life term less than 25-years-to-life, the person is eligible for release during the person's 20th year of incarceration; and,
 - c) If the controlling offense was a life term of 25-years-to-life, the person is eligible for release during the person's 25th year of incarceration. (Pen. Code, § 3051, subd. (b)(1)-(3).)
- 32) Provides that a person who was convicted of a controlling offense that was committed before the person had attained 18 years of age and for which the person was sentenced to LWOP is

eligible for release during the person's 25th year of incarceration. (Pen. Code, § 3051, subd. (b)(4).)

- 33) Provides that BPH conduct a youth offender parole hearing to consider release. Provides that if the person is found suitable for parole at the youth offender parole hearing, the person must be granted parole. (Pen. Code, § 3051, subd. (d).)
- 34) Excludes the following from youthful offender parole eligibility: a person sentenced under the Three Strikes law or the One Strike Sex Offense law; a person sentenced to LWOP whose controlling offense was committed after the person had attained 18 years of age; or an individual who would otherwise be eligible for youth offender parole, but who, subsequent to attaining 26 years of age, commits an additional crime for which malice aforethought is a necessary element of the crime or for which the individual is sentenced to life in prison. (Pen. Code § 3051, subd. (h).)
- 35) Provides that state law on public meetings does not grant a right to enter a correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall it be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute. (Gov. Code, § 11126, subd. (c)(4).)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, "Last month I was shocked and deeply concerned by the decisions from California's Board of Parole Hearings to recommend the release of two convicted serial child sex predators back into our communities. These individuals committed horrific crimes against children and were sentenced with the expectation that they would never be released. Unfortunately, due to changes in state law over the past several years, individuals convicted of even the most serious offenses are now being considered for early release. These policies have created dangerous loopholes that put public safety and our children at risk. AB 2342 will give the Governor greater authority to deny parole in violent felony cases, which is the same authority he has in murder cases. This bill also seeks to protect victims' rights and protections while also strengthening the statutory framework guiding the parole board's decisions."
- 2) **The Board of Parole Hearings (BPH):** The BPH was created in 2005. Prior to 2005, the Board of Prison Terms handled the adult population eligible to receive parole. The Board of Prison Terms was charged with parole hearings and revocation hearings for adults. Based on the recommendations of a task force assembled by then Governor Schwarzenegger the Board of Prison Terms was dissolved to form the Board of Parole Hearings charged with similar responsibilities and governed by the same statutory language. Among its many powers, the BPH has the authority to determine parole suitability and set a date for parole release when an individual is found suitable for release. (Pen. Code, § 5075 et seq.)

- 3) **Parole Hearings:** A parole hearing is a hearing to determine whether an incarcerated individual is suitable for release to parole supervision. Incarcerated individuals who are indeterminately sentenced must be granted parole by the BPH in order to be released from prison. An incarcerated individual is entitled to legal counsel at their parole hearing, which may be a private attorney or one appointed by the BPH, and a representative from the District Attorney's office from the prosecuting county may make a presentation regarding the office's position on the individual's suitability for parole.

The Penal Code provides that the parole board "shall grant parole to an inmate unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual." (Pen. Code, § 3041, subd. (b).) The fundamental consideration when making a determination about an individual's suitability for parole is whether the person *currently* poses an unreasonable risk of danger to society if released from prison. (*In re Shaputis* (2008) 44 Cal.4th 1241.) In deciding whether to grant parole, the BPH must consider all relevant and reliable information available. (Cal. Code Regs., tit. 15, §§ 2402, subd. (b), 2281, subd. (b).) Factors the BPH must consider include the nature of the commitment offense, including the circumstances of the person's social history; past and present mental state; past criminal history, including involvement in other criminal misconduct which is reliably documented; the base and other commitment offenses, including behavior before, during and after the crime; past and present attitude toward the crime; any conditions of treatment or control, including the use of special conditions under which the individual may safely be released to the community; and any other information which bears on the individual's suitability for release. (Cal. Code Regs., tit. 15, § 2281, subd. (b).) The regulations further state that "[c]ircumstances which taken alone may not firmly establish unsuitability for parole may contribute to a pattern which results in a finding of unsuitability." (*Ibid.*)

Although the parole board is required to consider the circumstances of the offense, the California Supreme Court has held that the parole board may not rely solely on the commitment offense when deciding to grant parole unless the circumstances of the offense "continue to be predictive of current dangerousness." (*In re Lawrence* (2008) 44 Cal.4th 1181, 1221.) The parole board is prohibited from requiring an admission of guilt to any crime for which an incarcerated person was committed to the CDCR when considering whether to grant an inmate parole. (Pen. Code, § 5011, subd. (b).) However, "an implausible denial of guilt may support a finding of current dangerousness, without in any sense requiring the inmate to admit guilt as a condition of parole....it is not the failure to admit guilt that reflects a lack of insight, but the fact that the denial is factually unsupported or otherwise lacking in credibility." (*In re Shaputis* (2011) 53 Cal.4th 192, 216.) Although the term "insight" is not explicitly included in the regulations, the regulations "direct the Board to consider the inmate's 'past and present attitude toward the crime' and 'the presence of remorse,' expressly including indications that the inmate 'understands the nature and magnitude of the offense' ... fit[ting] comfortably within the descriptive category of 'insight.'" (*Id.* at p. 218 (citations omitted).)

Additional guidance for making parole suitability determinations is provided in the regulations which list circumstances tending to show suitability and those tending to show unsuitability. Factors showing unsuitability include, among others, whether the person abused their victim during the offense or the offense was exceptionally cruel or callous; and,

whether the person has an unstable social history, committed a sadistic sexual offense, demonstrates a lack of remorse, or has engaged in serious misconduct while incarcerated. (Cal. Code Regs., tit. 15, § 2281, subd. (c).) Circumstances tending to show suitability for release include absence of a record of assaulting others as a juvenile or committing crimes with a potential of personal harm to victims; reasonably stable relationships with others; performance of acts which tend to indicate the presence of remorse; the commission of the crime occurred as the result of significant stress in his or her life; lack of any significant history of violent crime; the person's age reduces the probability of recidivism; and the person has made realistic plans for release or has developed marketable skills that can be put to use upon release. (Cal. Code of Regs., tit. 15, § 2281, subd. (d).) BPH can consider all relevant, reliable information available. (Cal. Code Regs., tit. 15, § 2281, subd. (b).)

The circumstances which tend to show suitability and unsuitability for parole are set forth as general guidelines, and the importance attached to any circumstance or combination of circumstances in a particular case is left to the judgment of the panel. (Cal. Code of Regs., tit. 15, § 2281, subs. (c) & (d).)

If BPH denies parole, then it must schedule the next parole hearing, after considering the views and interests of the victim, 15 years after the hearing at which parole was denied, unless BPH finds by clear and convincing evidence that the criteria relevant to the decision denying parole are such that consideration of the public and victim's safety does not require a more lengthy period of incarceration for the inmate than 10 additional years; 10 years after any hearing at which parole is denied, unless the BPH finds by clear and convincing evidence that the criteria relevant to the decision denying parole are such that consideration of the public and victim's safety does not require a more lengthy period of incarceration for the inmate than seven additional years; or three years, five years, or seven years after any hearing at which parole is denied, because the criteria relevant to the decision denying parole are such that consideration of the public and victim's safety requires a more lengthy period of incarceration for the inmate, but does not require a more lengthy period of incarceration for the inmate than seven additional years. (Pen. Code, § 3041.5, subd. (b)(3)(A)-(C).)

Among other things, this bill would provide that persons convicted of specified crimes are not eligible for the three-year deferral period. Under this bill, BPH must schedule the next parole suitability hearing for at least five years after the hearing at which parole is denied if the person was convicted of murder where the victim was under 14 years of age or where there were multiple victims; aggravated sexual assault of a minor; lewd and lascivious acts of a child under 14 years by force, violence, duress, menace, or fear of immediate and unlawful bodily injury; sexual intercourse, sodomy, oral copulation, or sexual penetration of a child 10 years of age or younger; or of a one-strike sex crime against more than one victim.

- 4) **Advanced Parole Consideration Hearings:** If a parole consideration hearing results in a denial period of three years, BPH must initiate an administrative review 11 months later to determine whether to advance the date of the inmate's next parole consideration hearing, as specified, unless the incarcerated person was determinately sentenced and is within 24 months of being released as a result of their minimum eligible parole date (MEPD). (Cal. Code Regs., tit. 15, § 2153.)

Notwithstanding any denial of parole, BPH has the discretion, after considering the views and interests of the victim, to advance a parole hearing to an earlier date when a change in

circumstances or new information establishes a reasonable likelihood that consideration of the public and victim's safety does not require the additional period of incarceration. (Pen. Code, § 3041.5, subd. (b)(4).)

Even if BPH does not exercise this discretion, an incarcerated person may request an advance hearing date by submitting a written request to BPH, with notice, upon request, and a copy to the victim, setting forth the change in circumstances or new information that establishes a reasonable likelihood that consideration of the public safety does not require the additional period of incarceration of the inmate. (Pen. Code, § 3041.5, subd. (d)(1). After considering the views and interests of the victim, BPH decides whether to grant or deny a request for an advance hearing date, a decision that is subject to review by a court or magistrate only for a manifest abuse of discretion. (Pen. Code, § 3041.5, subd. (d)(2).) BPH may summarily deny a request that does not comply with specific requirements or that does not set forth a change in circumstances or new information sufficient to justify granting an advance hearing date. (*Ibid.*) An incarcerated person may make only one written request for an advance hearing date every three years. (Pen. Code, § 3041.5, subd. (d)(3).)

Existing law provides that, to file a written petition to advance the date of the inmate's next parole consideration hearing, the incarcerated person or their attorney of record must send BPH a completed Petition to Advance Hearing Date Form or a written request that includes the following the incarcerated person's name; their CDCR number; the institution at which the incarcerated person is housed; a statement of the change in circumstances or new information since the date of the incarcerated person's most recent hearing resulting in a denial or stipulation of unsuitability; how the change in circumstances or new information establishes a reasonable likelihood that consideration of the public safety does not require that the inmate remain incarcerated until the date of his or her next parole consideration hearing; and the incarcerated person's signature and date of signature. (Cal. Code Regs., tit. 15, § 2150, subd. (b).) BPH, within 10 business days of receiving an advance hearing petition, must review the petition to determine whether the board has jurisdiction to advance the date of the inmate's next parole consideration hearing. (Cal. Code Regs., tit. 15, § 2151, subd. (a).) BPH has jurisdiction to advance the date of the incarcerated person's next parole consideration hearing if all of the following are true: the incarcerated person's last parole consideration hearing resulted in a denial of parole or a stipulation of unsuitability, and the incarcerated person has not submitted a petition to advance a parole consideration hearing date that was reviewed on the merits within the past three years. (Cal. Code Regs., tit. 15, § 2151, subd. (b)(1) & (2).)

This bill would provide that an incarcerated person may file a petition for an advance parole consideration hearing once every five years, rather than once every three years. Additionally, this bill would require an incarcerated person to demonstrate a material and substantial change in circumstances that justifies the advanced hearing. Under existing law, an incarcerated person must show that a change in circumstances or new information establishes a reasonable likelihood that consideration of public safety does not require the additional period of incarceration. (Pen. Code, § 3041.5, subd. (d)(2).) This bill would require that the change was not known to, or could not reasonably have been known to, the BPH at the time of the incarcerated person's prior parole hearing or prior request to advance; and the change has a direct and demonstrable bearing on the incarcerated person's public safety risk. It provides that a material and substantial change in circumstances cannot be based solely on routine institutional compliance or the absence of disciplinary violations; participation in

rehabilitative, education, or vocational programming that was previously available to the inmate; or the mere passage of time.

- 5) **Victims' Bill of Rights Act of 2008: Marcy's Law:** Proposition 9, also known as the Victims' Bill of Rights Act of 2008: Marcy's Law, was passed by the voters on November 4, 2008. The purpose of Marsy's Law was to provide victims with rights to justice and due process; and to eliminate parole hearing in which there is no likelihood a murderer will be paroled; and to provide that convicted murder can receive a parole hearing no more frequently than every three years, and can be denied a subsequent parole hearing for up to 15 years.¹ It also expanded the Victim's Bill of Rights.

Additionally, Marcy's law increased the deferral periods following a denial of parole. Prior to Marcy's Law, the parole board could defer a subsequent parole hearing following a denial of parole for one year unless it found that it was not reasonable to expect the incarcerated person to be suitable for parole within that time, in which case it could be extended up to five years if the person had been convicted of murder or up to two years for other offenses.² Marcy's Law increased the length of the deferral period following a denial of parole. As the California Supreme Court explains:

As amended in 2008 by Marsy's Law, section 3041.5 establishes longer deferral periods following the denial of parole than did the statute in 1983. The deferral periods range from a default period of 15 years to a minimum of three years. More specifically, the next hearing is to occur in 15 years, "unless the board finds by clear and convincing evidence that the criteria relevant to the setting of parole release dates ... are such that consideration of the public and victim's safety does not require a more lengthy period of incarceration for the prisoner than 10 additional years." (Pen. Code, § 3041.5, subd. (b)(3)(A).) If the Board makes such a finding, the next hearing shall be in 10 years unless the Board finds, again by clear and convincing evidence and considering the same criteria and considerations, that a period of more than seven years is not required. (Pen. Code, § 3041.5, subd. (b)(3)(B).) In that event, the next hearing shall be in three, five, or seven years. (Pen. Code, § 3041.5, subd. (b)(3)(C).) The Board is required to "consider[] the views and interests of the victim" before selecting the appropriate deferral period. (Pen. Code, § 3041.5, subd. (b)(3).) (*In re Vicks* (2013) 56 Cal.4th 274, 284.)

However, Marcy's Law also gave the parole board discretion to advance a parole suitability hearing prior to the end of the deferral period "when a change in circumstances or new information establishes a reasonable likelihood that consideration of the public and victim's safety does not require the additional period of incarceration of the prisoner." (Pen. Code, § 3041.5, subd. (b)(4); *In re Vicks, supra*, at p. 284.) It also gave an incarcerated person the opportunity to request an advance parole suitability hearing "by submitting a written request to the board, with notice, upon request, and a copy to the victim which shall set forth the change in circumstances or new information that establishes a reasonable likelihood that consideration of the public safety does not require the additional period of incarceration of the inmate." (Pen. Code, § 3041.5, subd. (d)(1); *In re Vicks, supra*, at pp. 284-285.)

¹ https://clerk.assembly.ca.gov/sites/clerk.assembly.ca.gov/files/archive/Statutes/2008/1876_2008_Volume1.pdf

² <https://www.cdcr.ca.gov/bph/parole-suitability-hearings-overview/advancing-an-inmates-next-parole-suitability-hearing-date/>

Marcy's law also provided:

The statutory provisions of this act shall not be amended by the Legislature except by a statute passed in each house by roll-call vote entered in the journal, three-fourths of the membership of each house concurring, or by a statute that becomes effective only when approved by the voters. However, the Legislature may amend the statutory provision of this act to expand the scope of their application, to recognize additional rights of victims of crime, or to further the rights of victims of crime by a statute passed by a majority vote of the membership of each house.

As previously noted, this bill changes the time frame and criteria for the petition to advance a parole hearing and increased the minimum deferral terms for specified offenders, both of which changes provisions of Marcy's law. As such, this bill provides that the act shall become operative only upon a constitutional amendment approved by the voters at the November 3, 2026, statewide election.

- 6) **Elderly Parole Program:** As the result of severe prison overcrowding, the Three-Judge Court ordered CDCR to implement several population reduction measures, including to “[f]inalize and implement a new parole process whereby inmates who are 60 years of age or older and have served a minimum of twenty-five years of their sentence will be referred to the Board of Parole Hearings to determine suitability for parole.” (February 10, 2014 Order, 2:90-cv-0520 LKK DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown.*) In response to the order, BPH created the Elderly Parole Program and began holding elderly parole hearings on October 1, 2014. Inmates with determinate terms as well as those sentenced to life with the possibility of parole are eligible for the program.³ Inmates who are sentenced to life without the possibility of parole, or who are sentenced to death, are not eligible for the program.⁴

AB 1448 (Weber), Chapter 676, Statutes of 2017, codified the Elderly Parole Program. However, AB 1448 narrowed the eligibility criteria by excluding individuals who were sentenced pursuant to “Three Strikes” or who were convicted of first-degree murder of a peace officer from the Elderly Parole Program. (Pen. Code, § 3055, subs. (g) & (h).) AB 3234 (Ting), Chapter 334, Statutes of 2020, expanded the eligibility criteria for elderly parole. Specifically, AB 3234 lowered the minimum age at which an incarcerated individual is eligible for elderly parole from 60- to 50-years-old and the amount of time that must be served from 25 years to 20 years. Incarcerated individuals who meet the eligibility criteria of the court-ordered Elderly Parole Program but who are excluded from the statutory Elderly Parole Program are eligible for elderly parole consideration under the court-ordered program.⁵

This bill would give the Governor the authority to reverse or modify a BPH decision to grant parole under the Elderly Parole Program to an incarcerated person who had been convicted of a violent felony.

³ <https://www.cdcr.ca.gov/bph/elderly-parole-hearings-overview/>

⁴ *Ibid.*

⁵ BPH, *Elderly Parole Fact Sheet* (Mar. 2022), p. 1 <https://www.cdcr.ca.gov/bph/wp-content/uploads/sites/161/2022/03/Elderly-Parole-Fact-Sheet3_18-1.pdf> [as of Mar. 30, 2026].

- 7) **Youth Offender Parole:** In accordance with *Graham, Miller, and Caballero*, SB 260 (Hancock), Chapter 312, Statutes of 2013, established a parole eligibility mechanism for individuals sentenced to determinate and indeterminate terms for crimes committed when they were juveniles. (Pen. Code, § 3051.) Under the youth offender parole process created by SB 260, a person has an opportunity for a parole hearing after having served 15, 20, or 25 years of incarceration depending on their controlling offense. (Pen. Code, § 3051.) SB 261 (Hancock), Chapter 471, Statutes of 2015, expanded eligibility for a youth offender parole hearings to those whose controlling offense occurred before they reached the age of 23.

In *People v. Franklin* (2016) 63 Cal.4th 261, the California Supreme Court held the enactment of Penal Code section 3051 satisfies the requirement of *Miller-Caballero* that a defendant who was a minor at the time of an offense have a meaningful opportunity to gain release during his or her natural lifetime because it requires that the defendant receive a parole hearing during the person's 25th year of incarceration.

AB 1308 (Stone), Chapter 675, Statutes of 2018, further expanded youth offender parole eligibility to include individuals whose controlling offense was committed when the person was 25 or younger.

This bill would give the Governor the authority to reverse or modify a BPH decision to grant parole under the Youth Offender Parole program to an incarcerated person who had been convicted of a violent felony.

- 8) **Argument in Support:** According to the *California District Attorneys Association* (CDA), "We agree with [Assemblymember Hoover] that the rules pertaining to parole hearings need to be fixed. Your bill will require Board of Parole Hearing officers to give substantial weight to the facts and circumstances of the commitment crime, and the original sentence imposed by the sentencing judge. This bill will require that public safety and the safety of victims will be the priority for the Board in making these decisions.

"Your bill will also prevent en banc hearings from being held in closed sessions. That makes great sense, as these cases are important public business.

"Your bill will require major violent sex offenders and child murderers serve at least 5 more years if they are denied release in a parole hearing.

"It will also prevent repetitive hearing requests from inmates who have done nothing to reduce their dangerousness."

- 9) **Argument in Opposition:** According to *Smart Justice*, "California's parole system is designed to protect our communities. It recognizes that California can improve public safety by incentivizing incarcerated people to take accountability, transform their thinking and behavior, and work toward repairing harm. Parole suitability reviews - including those conducted under the Youth Offender and Elderly Parole programs, and those conducted for people convicted of the offenses enumerated in AB 2342 - are rigorous and discretionary, allowing consideration of meaningful changes in a person's circumstances while upholding public safety and incorporating victim input. Given the rigor of the existing parole process, the positive supervision outcomes for those who are granted parole, and the benefits to community safety, there is no need to make the changes to the parole process contemplated

by AB 2342.

“Smart Justice California educates and emboldens policymakers who support meaningful criminal justice reforms that promote safety, fairness and healthy communities. We are an alliance of philanthropists working hand-in-hand with a broad coalition to foster common sense criminal justice reform through the electoral process, stakeholder engagement and voter education.”

“Current Law Already Gives the Governor the Power to Reverse Some Parole Grants for Those Who Qualify for Youth or Elderly Parole.

“The Governor’s authority to review and reverse parole board decisions is grounded in Article V, Section 8(b) of the California Constitution, which was established by Proposition 89 in 1988. Under that provision, the Governor may affirm, reverse, or modify a BPH decision to grant parole to a person convicted of murder. This means the Governor already has veto power over parole grants for individuals with murder convictions who qualify for Youth or Elderly Parole. AB 2342 would go significantly further, expanding that authority to cover non-murder violent felony convictions for all indeterminately sentenced individuals, and all non-murder violent felony convictions for determinately sentenced individuals granted parole through the Youth or Elderly programs.

“The substantial expansion of the Governor’s power that AB 2342 proposes is inconsistent with the purposes of the Youth and Elderly Parole programs. These programs reflect a substantial body of research establishing that people age out of crime. People who committed offenses as youth, and people who have aged significantly in prison, present a categorically different – and lower – risk profile than they did at the time of their offense. Expanding executive override into these programs would second-guess this evidence-based framework and replace it with political judgment.

“California is already a significant outlier in even granting the Governor with the authority to review and reverse parole board decisions. Until recently Maryland was one of only three states — along with California and Oklahoma — that gave governors the power to reject parole commission recommendations. Maryland has since removed the governor from that process entirely, recognizing that executive override inevitably makes parole decisions political. California and Oklahoma now stand alone.

“Expanding Gubernatorial Override Raises Separation of Powers Concerns and Undermines Public Safety.

“The BPH is an independent body charged with making individualized determinations of parole suitability. Allowing the Governor to reverse those decisions in a broad category of cases – without the constraints that govern the Board’s process – raises significant separation of powers concerns and undermines the integrity of the parole system.

“California’s Youth Offender Parole program reflects a consensus – affirmed by the United States Supreme Court and decades of research in neuroscience and developmental psychology – that people who commit crimes as youth are less culpable and more capable of rehabilitation than older adults. The Elderly Parole program reflects the equally well-established principle that aging significantly reduces recidivism risk, and that continued

incarceration of older individuals is among the most costly and least effective uses of state correctional resources. Indeed, the Elderly Parole program originated as a court-ordered program to reduce prison overcrowding, and this bill does not address the costs – both fiscal and legal – of increasing the prison population by expanding the Governor’s veto power over parole grants of those who pose the least risk to public safety.

“Giving the Governor authority to override parole grants in these programs does not make communities safer. It keeps low-risk individuals incarcerated at significant cost to California taxpayers, separates families, and undermines the rehabilitative purpose that these programs were designed to serve.

“Permitting the BPH to Determine that the Nature of the Commitment Offense Alone Is Sufficient to Deny Parole Contradicts Longstanding California Supreme Court Jurisprudence and Raises Due Process Concerns.

“The California Supreme Court has held that relying solely on the immutable and unchangeable circumstances of a parole candidate’s commitment offense violates the candidate’s constitutional right to due process. (*In re Lawrence* (2008) 44 Cal.4th 1181.) The Court has been clear that parole may be denied only if the person “...continues to pose an unreasonable risk to public safety.” (*Id* at p. 1221). A parole candidate’s criminal history alone cannot establish current dangerousness due to “...the immutability of . . . past criminal history and its diminishing predictive value for future conduct...” (*In re Roderick* (2007) 154 Cal.App.4th 242, 277.) Thus, even if a parole candidate has a significant history of violence, the Board must consider how the passage of time and attendant changes in maturity, understanding, and behavior may have decreased the candidate’s risk to public safety. (See *In re Lawrence, supra*, 44 Cal.4th at 1219–20.) “Accordingly, the relevant inquiry...is not merely whether an inmate’s crime was especially callous, or shockingly vicious or lethal, but whether the identified facts are *probative* to the central issue of *current* dangerousness when considered in light of the full record...” (*In re Lawrence, supra*, 44 Cal.4th at 1221.)

“AB 2342 contradicts this California Supreme Court framework and raises serious constitutional concerns.

“Politicizing the En Banc Process Undermines its Purpose & Decreases Public Safety.

“The purpose of the en banc review process is to ensure consistency in parole decisions and to correct errors of law or fact. A more politicized en banc process could prevent commissioners from making fair and reasoned parole decisions, undermining rehabilitation and public safety. In high profile cases, for example, the risk of being publicly targeted or attacked may reasonably discourage commissioners from making evidenced-based decisions.

“Requiring open sessions for the decision portion of the en banc review process would open the door to the targeting of individual commissioners based on their decisions. In recent months, commissioners have been threatened based on their decisions to uphold parole grants in high profile cases. Given the hostility of the current climate, requiring open sessions and identifiable votes would create undue risk for commissioners, including risk to their physical safety.

“Making the en banc process public risks disclosure of confidential & sensitive information.

En banc decisions include discussion of mental health and medical records, comprehensive risk assessments, drug treatment records, and other sensitive, confidential or protected information that should not be and may not legally be shared in a fully public setting.”

10) Related Legislation:

- a) AB 2232 (Patterson) would eliminate the BPH’s authority to advance, and an incarcerated person’s ability to request an advance of, a parole suitability hearing when, after considering the views and interests of the victim, there has been a change in circumstances or new information that establishes a reasonable likelihood that consideration of public safety does not require the additional period of incarceration of the individual. AB 2232 is scheduled to be heard today in this committee.
- b) AB 2570 (Lackey) would increase the age at which an incarcerated person becomes eligible for the Elderly Parole Program from 50- to 65-years-old. The hearing on AB in this committee was canceled at the request of the author.
- c) AB 2727 (Nguyen) would change the eligibility threshold for the Elderly Parole Program for persons convicted of specified sex crimes against children from 50 years old or older and has served at least 20 years of their sentence to 65 years old or older and has served at least 25 years of their sentence. AB 2727 is pending a hearing in the Assembly Appropriations Committee.
- d) SB 356 (Jones) would increase the minimum age limitation for the Elderly Parole Program to inmates who are 60 years of age and who have served a minimum of 25 years. SB 356 is pending hearing in this committee.
- e) SB 906 (Jones) would make the decision and the vote of each commissioner in an en banc review of a parole suitability decision a public record; would require an en banc review to be conducted by all commissioners holding office, as opposed to a majority of them; and would prohibit an en banc review from being held in a closed session. SB 906 is scheduled for hearing today in the Senate Public Safety Committee.
- f) SB 1278 (Niello) would exclude persons sentenced for a one-strike sex offense, as a habitual sex offender, or for specified sex offenses classified as a “violent” and/or “serious” felony. SB 1278 is scheduled for hearing today in the Senate Public Safety Committee.
- g) SB 1446 (Senate Committee on Public Safety), among other things, would make the decision and the vote of each commissioner in an en banc review of a parole suitability decision a public record; would provide that an en banc review conducted following the request of the Governor for review a parole decision does not have to be limited to the record of the hearing; and would provide that an en banc review at the request of the Governor is not subject to the standard of review whereby a panel’s decision is final unless the en banc review finds an error of law, that the decision was based on an error of fact, or that new information should be presented to the board, as specified. SB 1446 will be heard today in the Senate Public Safety Committee.

11) Prior Legislation:

- a) AB 47 (Nguyen), of the 2025-2026 Legislative Session, would have provided that a person sentenced for a one-strike sex offense or as a habitual sex offender is ineligible for elderly parole until the person is 60 years old or older and has served a minimum of 25 years of continuous incarceration on their current sentence. AB 47 was held in suspense in the Assembly Appropriations Committee.
- b) SB 286 (Jones), of the 2025-2026 Legislative Session, would have exclude from Elderly Parole eligibility individuals convicted of murder or specified felony sex offenses, or sentenced as a habitual sex offender or under the One Strike Sex Offense statute. SB 286 was held in suspense in the Senate Appropriations Committee.
- c) SB 445 (Jones), of the 2021-2022 Legislative Session, would have excluded “One Strike” sex offenses from the Elderly Parole Program. SB 445 failed passage in the Senate Public Safety Committee.
- d) AB 3234 (Ting), Chapter 334, Statutes of 2020, lowered the minimum age limitation for the Elderly Parole Program to inmates who are 50 years of age and who have served a minimum of 20 years.
- e) AB 965 (Stone), Chapter 577, Statutes of 2019, authorized the Secretary of CDCR to allow person eligible for youth offender parole to obtain an earlier youth offender parole hearing by adopting regulations to award custody credits towards their youth offender parole eligibility date.
- f) AB 1448 (Weber), Chapter 676, Statutes of 2017, codified the Elderly Parole Program, to be administered by the Board of Parole Hearings.
- g) AB 1308 (Stone), Chapter 675, Statutes of 2017, expanded the youth offender parole process, a parole process for persons sentenced to lengthy prison terms for crimes committed before attaining 23 years of age, to include those who committed their crimes when they were 25 years of age or younger.
- h) SB 394 (Lara), Chapter 684, Statutes of 2017, made a person convicted of an offense before he or she was 18 years of age and for which a life sentence without the possibility of parole had been imposed eligible for parole under a youth parole hearing during his or her 25th year of incarceration.
- i) SB 1341 (Hueso), of the 2015-2016 Legislative Session, would have prohibited BPH from advancing a parole suitability hearing less than two years after a hearing at which parole was denied. SB 1341 did not receive a hearing in the Senate Public Safety Committee.
- j) SB 230 (Hancock), Chapter 470, Statutes of 2015, allowed incarcerated persons serving life sentences found suitable for parole to be paroled, as specified, and authorized the Governor to request a review of a decision by the board to grant or deny parole at any time before the inmate's scheduled release.

- k) SB 260 (Hancock), Chapter 312, Statutes of 2013, established a youth offender parole hearing which is a hearing by BPH for the purpose of reviewing the parole suitability of any prisoner who was under 18 years of age at the time of his/her controlling offense.

REGISTERED SUPPORT / OPPOSITION:

Support

Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California District Attorneys Association
California Narcotic Officers' Association
California Reserve Peace Officers Association
Claremont Police Officers Association
Corona Police Officers Association
Criminal Justice Legal Foundation
Culver City Police Officers' Association
Fullerton Police Officers' Association
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association

Opposition

ACLU California Action
All of US or None (HQ)
California Coalition for Women Prisoners
California Public Defenders Association
Californians United for a Responsible Budget
Ella Baker Center for Human Rights
Initiate Justice
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
San Francisco Public Defender
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Beyond Impact

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